

## **Sample Article of Incorporation and General Operating By-law for Christian Reformed Churches in Ontario**

**Note: The following model Articles of Incorporation and By-laws has been drawn up to assist local churches of Classis Hamilton incorporated in Ontario to either incorporate for the first time, or to review their current governing documents when they wish to make changes in them. It is strongly recommended that this document be customized to the local church and under the guidance of local legal counsel.**

***Letters Patent [Articles of Incorporation if federally incorporated and ONCA if proclaimed] for Christian Reformed Churches in Ontario***

### **Form and contents of letters patent [articles]**

Letters Patent or articles of incorporation must set out the name of the corporation, its purposes and any other information required by the Act or the regulations or by the Director. The guidance of local legal council will be required to prepare or amend the Letters Patent or articles of incorporation. *Note that where an unincorporated or incorporation church was previously registered as charity by Canada Revenue Agency (CRA), the purposes or objects must be identical in every respect with the prior purposes or objects registered with CRA. If the church wishes to make any changes in the existing objects or purposes, they must be approved by CRA before they are filed with the new or amended articles.*

### **Articles inconsistent with Act**

If a provision in a corporation's articles is inconsistent with a provision in the Act or the regulations, the provision in the Act or the regulations prevails and the articles are deemed to be amended accordingly.

### **Minimum and maximum number of directors (minimum no less than 3, Act s.22.(1))**

The Canada Not-for-profit Act allows for a minimum and maximum number of directors. The current Ontario Corporations Act requires the church to specify a specific number of directors but does not require this provision to be addressed in the Letters Patent or Supplementary Letters Patent. (The proposed Ontario Not-for-profit Corporations Act also provides for a minimum and maximum number of directors to be stated in the articles of incorporation. However, there is currently no certainty that the ONCA will be proclaimed into law.)

### **Classes of members**

The CNCA (and ONCA, if proclaimed,) articles should provide for classes or groups of members. The Church has at least three classes of members consisting of baptised members, confessing members without the right to vote and professing members with the right to vote (see definition in sample By-law s. 1.01). When drafting the membership section for the revised articles, care should be taken to clearly identify the restrictions for each class of membership and how a person moves from one class to another.

## *Sample General Operating By-Law*

### **Introduction**

This sample by-law has been prepared for Christian Reformed Churches that are, or wish to be incorporated under the Ontario Corporations Act, 1990 (OCA), the Canada Not-for-profit Corporations Act, (S.C. 2009, c.23) (CNCA), and the proposed Ontario not-for-profit Corporations Act, 2010 (if proclaimed) (ONCA) and regulations (together the “Act”). The Church Order of the CRCNA has been incorporated into this by-law to ensure that the Church Order takes precedence wherever permitted under the Act and the common law. In preparing this sample by-law, the model by-law for churches in Canada as approved by Synod 2012 has been followed.

This by-law provides rules and procedures to be followed by the corporation in its day-to-day governance and is intended to apply to the most common events. Relevant provisions of the Act have been incorporated where applicable. However, this by-law is not in itself a complete codification of the provisions of the Act and other laws applicable to charitable corporations. Many applicable provisions of the Act and the law have not been duplicated in this sample by-law and reference to both should be made to ensure that all relevant legal requirements have been complied with.

In all cases local churches should obtain advice from qualified legal counsel on both the appropriate matters to be contained in a by-law and its interpretation.

### **Section 1 - General**

#### **1.01 Definitions**

In this by-law, unless the context otherwise requires:

1. **“Act”** means the applicable act in force at the time, whether it be the *Corporations Act*, R.S.O. 1990, c. C.38, as amended, the *Not-for-Profit Corporations Act*, 2010, S.O. 2010, c. 15 as amended if proclaimed, or the *Canada Not-for-Profit Corporations Act*, S.C. 2009, c. 23 as amended, or any successor legislation to these acts;

Be sure to remove the Act not applicable to the specific church.

2. **“Annual Meeting”** means a meeting of the Professing Members as more particularly described herein;
3. **“Auditors”** means the firm appointed as auditors of the Church;
4. **“Baptized Member”** means a person admitted as a baptized member pursuant to the Church Order and shall not have the right to vote or to be elected to the official offices of the Church pursuant to the Church Order, nor shall they be eligible to be elected as Directors pursuant to the Act;

Church Order Article 56 incorporates baptized persons as members of the church so they cannot be ignored as a class of members in the church. This sample by-law does not permit baptized members to vote. However, s. 105 of the ONCA (if proclaimed) gives all classes of members the right to vote on matters enumerated under s. 103 of the ONCA. For that reason it is suggested that once the ONCA comes into force, the Church amends its Letters Patent by means of an amending Article within the three-year timeframe to state that Baptized Members shall not be entitled to vote on matters enumerated under s. 103 unless they have reached 18 years of age.

5. “**Board**” means the directors of the Corporation;
6. “**By-laws**” means this by-law (including the schedules to this by-law) and all other by-laws of the Corporation as amended and which are, from time to time, in force;
7. “**Chair**” means the chair of the Board;

Note: Under the OCA this office is called “President.” Under the CNCA and ONCA the President normally is the most senior staff member (paid or unpaid) of the corporation. For that reason the office of president has been defined as that of the lead (or senior) pastor in this by-law. Please also note that the Church has a president of Council pursuant to the Church Order. This may, but need not be the same person as the Chair of the Board. The president of Council is not the corporate president pursuant to the Act, but is an officer of the Board. (See also the Lead Pastor definition below as well as Schedule A.)

8. “**Church**” means the corporation that has passed this by-law under the applicable Act;
9. “**Church Order**” means the Church Order of the Denomination, comprised of the original Church Order of Dort 1618-19, as revised by The Christian Reformed Synod of 1914 and 1965 and as may be further amended by synod from time to time;
10. “**Confessing Member**” means a person admitted as a confessing member pursuant to the Church Order, but who shall not have the right to vote at Annual Meetings nor be eligible to be elected to the offices of the Church pursuant to the Church Order, nor shall they be eligible to be elected as Directors pursuant to the Act;

Church Order Article 59-b and c state that individuals who profess their faith publicly shall be designated as “confessing members” so they cannot be ignored as a separate class of members in the church. Since there is a desire within the Church that baptized members publicly profess their faith at a young age, this sample by-law does not permit confessing members to vote until they reach the age when the Church decides that they receive all the privileges and responsibilities in accordance with Supplement, Article 59-c of the Church Order. However, s. 105 of the ONCA gives all classes of members the right to vote on matters enumerated under s. 103 of the ONCA. For that reason it is suggested that once the ONCA comes into force, the Church amends its Letters Patent by means of an amending Article within the three-year timeframe to state that Confessing Members shall not be entitled to vote on matters enumerated under s. 103 unless they are at least 16 years of age.

11. “**Council**” means the ministers, elders, and deacons elected to those offices by the Professing Members of the Church pursuant to the Church Order;
12. “**Denomination**” means The Christian Reformed Church in North America;
13. “**Director**” means the Professing Member who is elected to be a director at the Annual Meeting of Members pursuant to the Act;
14. “**Facilities**” means any real property, including without limitation any building, owned, leased, or otherwise under the control of the Church;
15. “**Lead Pastor**” means the most senior staff member of the Church;
16. “**Member**” means a Professing Member, Confessing Member or Baptized Member;
17. “**Minister**” means any individual presently holding that office in the Church;
18. “**Officer**” means an officer of the Board;
19. “**Professing Member**” means an individual admitted as adult confessing member pursuant to the Church Order who has been granted the right to vote at Annual Meetings and who is eligible to be elected to the ecclesiastical offices of the Church pursuant to the Church Order;

Professing Members are distinct from Confessing Members in this sample by-law to

accommodate the distinction introduced in Church Order Article 59-b and c. Confessing Members are all those who have publicly confessed their faith in accordance with Article 59-b, regardless of how young they may be, and Professing Members are those Confessing Members who have received all the privileges and responsibilities in Article 59-c.

20. "**Special Meeting**" means a meeting of Members called hereunder; and,
21. "**Special Resolution**" means a resolution passed by the Council and confirmed with or without variation by at least two-thirds of the votes cast at a meeting of Members duly called for that purpose or, in lieu of such confirmation, by the consent in writing of all Professing Members.

### **1.02 Interpretation**

Other than as specified in Section 1.01, all terms contained in this by-law that are defined in the Act shall have the meanings given to such terms in the Act. Words importing the singular include the plural and vice versa, and words importing one gender include all genders.

### **1.03 Severability and Precedence**

The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law. If any of the provisions contained in the By-laws are inconsistent with those contained in the Letters Patent/Articles of Incorporation or the applicable Act, the provisions contained in the [Letters Patent or Articles (strike out title that is not applicable) or the Act, as the case may be, shall prevail.

### **1.04 Church Order to Prevail**

Wherever a conflict exists between the provisions of this By-law and the Church Order, the provisions in the Church Order shall take precedence and apply.

### **1.05 Execution of Contracts**

Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any two of its Officers or Directors. In addition, the Board may from time to time direct the manner in which and the person by whom a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal, if any, to the document. Any Director or Officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

## **Section 2 – Directors**

### **2.01 Election and Term**

The Directors shall be nominated by the Council and elected by the Professing Members at the Annual Meeting of Members. Their term of office shall be from the date of the meeting at which they are elected or appointed until the [the ONCA, if proclaimed, specifies maximum number of years at four (see ONCA s. 24(1))] Annual Meeting or until their successors are elected or appointed. The Directors shall retire in rotation so that an equal number retires at each Annual Meeting.

The CNCA (and ONCA, if proclaimed) requires that a minimum and maximum number of directors be set out in the Articles of Incorporation. Each Church needs to determine the number of Directors they wish to have in office as well as whether one, some or all of them should be

elders and deacons. Please note that until the ONCA is proclaimed into law, the current Corporations Act requires that the by-laws must specify a specific number of individuals serving on the Board.

## 2.02 Vacancies

The office of a Director shall be vacated immediately and automatically:

1. if the Director resigns office by written notice to the secretary, which resignation shall be effective at the time it is received by the secretary or at the time specified in the notice, whichever is later;
2. if the Director dies or becomes bankrupt;
3. if the Director is found to be ineligible to manage charitable property by a court, under Ontario law or under the *Income Tax Act* (Canada);
4. if a financial interest as described in section 7.02 below applies to the Director;
5. if a person elected as Director has not signed an acceptance to serve as a Director within ten days of being elected unless the person attends and participates in a subsequent meeting of the Board; or
6. if at a meeting of the Board, a resolution is passed by a majority of the Board, or the majority prescribed in the applicable Act, to remove the Director before the expiration of the Director's term of office.

The foregoing clause is intentionally drafted so that a person who may not qualify as a Director for any of the reasons stated is immediately and automatically deemed not to be a Director for all legal purposes.

## 2.03 Filling Vacancies

A vacancy on the Board shall be filled as follows:

1. a quorum of Board may fill a vacancy among the Directors;
2. if there is not a quorum of Directors or there has been a failure to elect the minimum number of Directors set out in the articles, the Directors in office shall, without delay, call a special meeting of the Professing Members to fill the vacancy and, if they fail to call such a meeting, the meeting may be called by any Professing Member; and
3. the Board fill any other vacancy by a majority vote, and the appointee shall hold office for the remainder of the unexpired portion of the term of the vacating Director.

## 2.04 Committees

Committees may be established by the Board as follows:

1. The Board may appoint from their number an executive committee and may delegate to the executive committee any of the powers of the Board excepting those powers set out in the Act that are not permitted to be delegated; and
2. Subject to the limitations on delegation set out in the Act, the Board may establish any committee it determines necessary for the execution of the Board's responsibilities. The Board shall determine the composition and terms of reference for any such committee. The Board may dissolve any committee by resolution at any time.

## 2.05 Remuneration of Directors

The Directors shall serve without remuneration for any services performed for the Church and shall neither directly nor indirectly receive any profit from the Church; provided that they may

be reimbursed for reasonable expenses they incur in the performance of their duties for the Church.

Directors of a charity may receive no financial benefit from the Church. This includes income they may be deemed to receive as a result of their spouse or other dependent person receiving profit of any kind from the Church. This also applies when the Director in any way financially benefits from a person receiving income from the Church. (See 7.02 below.)

## **2.06 Powers of the Board**

The Board shall have exclusive power to administer the property of the Church and such other powers that may not be delegated by the Board as set out in the Act. The Board shall administer the property affairs of the Church consistent with the Church Order, objects and By-laws of the Church, including without limitation

- (i) entering into contracts;
- (ii) making expenditures;
- (iii) entering into a trust arrangement;
- (iv) acquiring, accepting, soliciting, or receiving legacies, gifts, grants, settlements, bequests, endowments, and donations of any kind; and
- (v) appointing agents and engaging employees.

The remuneration for all Ministers, employees, and agents shall be fixed by the Board.

In all other matters pursuant to the Church Order, the Council shall have exclusive authority.

## **2.07 Use of Facilities**

All decisions affecting the use of the Church's Facilities shall be the responsibility of the Council.

## **2.08 Rights to Attend Board Meetings**

Council members who are not Directors may attend all meetings of the Board and may speak to all matters on the Board's agenda but shall not have the right to vote at Board meetings.

## **Section 3 - Board Meetings**

### **3.01 Calling of Meetings**

Meetings of the Board may be called by the Chair, Vice-Chair or any two Directors at any time and any place on notice as required by this by-law.

### **3.02 Regular Meetings**

The Board may fix the place and time of regular Board meetings and send a copy of the resolution fixing the place and time of such meetings to each Director and Council member, and no other notice shall be required for any such meetings.

### **3.03 Quorum of Directors' Meetings**

A quorum of the Board shall be the majority of Directors present in person.

### **3.04 Notice**

Notice of the time and place for the holding of a meeting of the Board shall be given in the manner provided in Section 10 of this by-law to every Director and Council member of the Church not less than seven days before the date that the meeting is to be held. Notice of a

meeting is not necessary if all of the Directors and Council members are present, and none objects to the holding of the meeting, or if those absent have waived notice or have otherwise signified their consent to the holding of such meeting. If a quorum of Directors is present, each newly elected or appointed Board may, without notice, hold its first meeting immediately following the Annual Meeting of the Church.

### **3.05 Chair**

The Chair shall preside at Board meetings. In the absence of the Chair, the Vice-Chair shall preside. If the Vice-Chair also is absent, the Directors present shall choose one of their number to act as the Chair.

### **3.06 Voting**

Each Director has one vote. Questions arising at any Board meeting shall be decided by a majority of votes. In case of an equality of votes, the Chair shall not have a second or casting vote.

## **Section 4 - Financial**

### **4.01 Banking**

The Board shall by resolution from time to time designate the bank, credit union or trust company in which the money, bonds or other securities of the Church shall be placed for safekeeping.

### **4.02 Financial Year**

The financial year of the Church ends on December 31 in each year or on such other date as the Board may from time to time by resolution determine.

### **4.03 Auditor**

The Church shall at its Annual Meeting of Members appoint an Auditor in accordance with the Act, to express an opinion on the financial statements and report that opinion to the Church's Annual Meeting of Members.

Under certain circumstances, a Church may wish to engage the auditor to conduct a review engagement as permitted by the Act (under the OCA if income is less than \$100,000. This amount is increased to \$500,000 if the ONCA is proclaimed) provided this by-law makes provision for that practice and provided that the Professing Members annually pass a resolution to continue this practice in the following year. If that is what the Church desires to do, this by-law subsection 4.03 will need to be amended accordingly.

## **Section 5 - Officers**

### **5.01 Officers**

The Board shall appoint from among the Directors a Chair and may appoint any other person to be a Lead [or Senior] Minister, treasurer and secretary at its first meeting following the Annual Meeting of the Church. No staff member may be a Director, but staff members may be Officers. Officers other than the Chair need not be Directors. The office of treasurer and secretary may be held by the same person and may be known as the secretary-treasurer. The Board may appoint such other Officers and agents as it deems necessary, and who shall have such authority and shall perform such duties as the Board may prescribe from time to time.

## **5.02 Office Held at Board's Discretion**

Any Officer shall cease to hold office upon resolution of the Board.

## **5.03 Duties**

Officers shall be responsible for the duties assigned to them and they may delegate to others the performance of any or all of such duties.

## **5.04 Duties of the Chair**

The Chair shall perform the duties described in sections 3.05 and 9.05 and such other duties as may be required by law or as the Board may determine from time to time.

## **5.05 Duties of the Lead [or Senior] Minister**

The Lead [or Senior] Minister shall perform the duties described in Schedule A and such other duties as may be required by law or as the Board may determine from time to time.

## **5.06 Duties of the Treasurer**

The treasurer shall perform the duties described in Schedule B and such other duties as may be required by law or as the Board may determine from time to time.

## **5.07 Duties of the Secretary**

The secretary shall perform the duties described in Schedule C and such other duties as may be required by law or as the Board may determine from time to time.

The secretary of the Board may but need not be someone other than the clerk of Council.

# **Section 6 - Protection of Directors and Others**

## **6.01 Protection of Directors and Officers**

No Director, Officer or committee member of the Church is to be liable for the acts, neglects or defaults of any other Director, Officer, committee member or employee of the Church or for joining in any receipt or for any loss, damage or expense happening to the Church through the insufficiency or deficiency of title to any property acquired by resolution of the Board or for or on behalf of the Church or for the insufficiency or deficiency of any security in or upon which any of the money of or belonging to the Church shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or Church with whom or which any moneys, securities or effects shall be lodged or deposited or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of his or her respective office or trust provided that they have:

1. complied with the Act and the Church's articles and By-laws; and
2. exercised their powers and discharged their duties in accordance with the Act.

## **6.02 Indemnity to Directors and Officers**

Every Director, Officer or Person (with "Person" in this section to include corporations, partnerships, joint ventures, sole proprietorships, unincorporated associations and other forms of business organizations) who has undertaken or is about to undertake any liability on behalf of the Church, its heirs and assigns, will respectively be indemnified and saved harmless out of the funds of the Church from and against:

1. all costs, charges and expenses which such Director, Officer or Person sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of his office or in respect of any such liability, except such costs, charges or expenses as are occasioned by their own wilful neglect or default; and
2. all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

### **6.03 Indemnity to Others**

The Church shall also indemnify any such Persons as described above in such other circumstances as the Act or law permits or requires. Nothing in this by-law shall limit the right of any Person entitled to indemnity to choose indemnity apart from the provision of this by-law to the extent permitted by the Act or law.

### **6.04 Insurance**

The Church shall purchase and maintain appropriate liability insurance for the benefit of the Church and each individual acting or having previously acted in the capacity of Director or Officer, and such insurance shall include property insurance and director's and officers' insurance with coverage limits and with insurers deemed appropriate by the Board from time to time. No insurance shall be provided for any liability that relates to willful neglect in performing his or her duties.

### **6.05 Authority to Purchase Insurance**

The Board shall before giving approval to the indemnities in 6.02 and 6.03, and before purchasing insurance as set out in 6.04 consider the following:

1. The degree of risk to which an indemnifiable or insured person is or may be exposed exercised their powers and discharged their duties in accordance with the Act.
2. The degree of risk to which an indemnifiable or insured person is or may be exposed.
3. Whether, in practice, the risk cannot be eliminated or significantly reduced by means other than the indemnity or insurance.
4. Whether the amount or cost of the insurance is reasonable in relation to the risk.
5. Whether the cost of the insurance is reasonable in relation to the revenue available to the Church.
6. Whether it advances the administration and management of the property to give the indemnity or purchase the insurance.

## **Section 7 - Conflict of Interest**

### **7.01 Conflict of Interest**

A Council member or Officer who is in any way directly or indirectly interested in a contract or transaction, or proposed contract or transaction, with the Church shall make the disclosure required by the Act. Except as provided by the Act, no such Council member or Officer shall attend any part of a meeting of the Board or vote on any resolution to approve any such contract or transaction.

## **7.02 Benefits for Directors**

No Director shall, directly or through an associate, receive a financial benefit, through a contract or otherwise, from the Church unless the provisions of the Act and the common law applicable to charitable corporations are complied with.

In most cases, a director cannot receive any remuneration from a registered Canadian charity beyond the disbursements incurred for director duties. An associate of a Director would include a spouse, a business partner or any other individual who does not deal at arm's length with the Director. A financial benefit could include remuneration, honorarium, or financial assistance of any kind received by the Director or by his or her associate.

## **Section 8 - Members**

### **8.01 Members**

Membership in the Church shall consist of persons interested in furthering the Church's purposes who have been accepted into one of the three classes of membership in the Church by resolution of the Council in accordance with the provisions of the Church Order and by the Board pursuant to the Act. The three classes of membership are:

1. **Baptized Members** are those who have been admitted as such through the administration of the sacrament of baptism while they were infants. They have the right to attend all Annual Meetings and Special Meetings of Members once they have become [insert an age] years of age and have the right to speak at such Meetings, but without the right to make motions or vote.
2. **Confessing Members** are those who have been admitted as such in accordance with the provisions of the Church Order. They have the right to attend all Annual Meetings and Special Meetings of Members, but without the right to make motions or to vote until they are also admitted as Professing Members with the full privileges and responsibilities associated with Professing Membership.
3. **Professing Members** who have been admitted as such by the Council pursuant to the Church Order and Council's policies. They have the right to attend all Annual Meetings and Special Meetings of Members and the right to introduce motions, to vote and to be nominated and elected to serve in the offices of the Church pursuant to the Church Order and to be nominated and elected as Directors.

### **8.02 Membership**

A membership in the Corporation is not transferable and automatically terminates if the Member resigns or such membership is otherwise terminated in accordance with the Act or pursuant to the Church Order.

Churches do transfer all three classes of members into and out of the membership of the Church, but that is an ecclesiastical decision pursuant to the Church Order, but it is not to be considered a corporate transfer. According to the Church Order, each Church admits 'transferred' members by a resolution passed by Council.

### **8.03 Disciplinary Act or Termination of Membership for Cause**

1. Upon 15 days' written notice to a Member, the Board may pass a resolution authorizing disciplinary action or the termination of membership for violating any provision of the articles or By-laws.

2. The notice shall set out the reasons for the disciplinary action or termination of membership. The Member receiving the notice shall be entitled to give the Board a written submission opposing the disciplinary action or termination not less than 5 days before the end of the 15-day period. The Board shall consider the written submission of the Member pursuant to the Church Order before making a final decision regarding disciplinary action or termination of membership. The Board may choose to meet with the Member. If the Member is dissatisfied with the decision of the Board, the Member may use the dispute resolution mechanisms prescribed in the Church Order.

## **Section 9 - Members' Meetings**

### **9.01 Annual Meeting**

The Annual Meeting shall be held on a day and at a place within Ontario fixed by the Board. Any Member, upon request, shall be provided, not less than 21 days before the Annual Meeting, with a copy of the approved financial statements, auditor's report [or review engagement report] and other financial information required by the By-laws or articles. The business transacted at the annual meeting shall include:

1. receipt of the agenda;
2. receipt of the minutes of the previous Annual and subsequent Special Meetings;
3. consideration of the financial statements;
4. report of the auditor [or person who has been appointed to conduct a review engagement];
5. reappointment or new appointment of the auditor [or a person to conduct a review engagement for the coming year];
6. election of Directors; and
7. such other or special business as may be set out in the notice of meeting.

Most churches elect their elders and deacons at a time other than the Annual Meeting. The Act requires that the Directors be elected at the Annual Meeting. So whether the Directors are nominated by the Council from among the Members or from among the elders and deacons, or a combination of both, the election of those who will serve as Directors has to take place at the Annual Meeting for corporate purposes.

No other item of business shall be included on the agenda for Annual Meeting unless a Member's proposal has been given to the secretary prior to the giving of notice of the Annual Meeting in accordance with the Act and the Church Order, so that such item of new business can be included in the notice of Annual Meeting.

### **9.02 Special Meetings**

The Board may call a Special Meeting of the Members. The Board shall convene a Special Meeting on written requisition of not less than one-tenth of the Professing Members for any purpose connected with the affairs of the Church that does not fall within the exceptions listed in the Act or is otherwise inconsistent with the Act or the Church Order, within 21 days from the date of the deposit of the requisition.

### **9.03 Notice**

Subject to the Act, not less than 10 and not more than 50 days written notice of any Annual or Special Members' meeting shall be given in the manner specified in the Act to each Member and

to the auditor [or person appointed to conduct a review engagement]. Notice of any meeting where special business will be transacted must contain sufficient information to permit the Professing Members to form a reasoned judgment on the decision to be taken. Notice of each meeting must remind the Professing Member of the right to vote by mail or email. There shall be no vote by proxy.

#### **9.04 Quorum**

A quorum for the transaction of business at a Members' meeting is [insert either a specific number or a percentage] of the Members entitled to vote at the meeting. If a quorum is present at the opening of a meeting of the Members, the Members present may proceed with the business of the meeting, even if a quorum is not present throughout the meeting.

When setting the quorum be sure that it is not too high so that the meeting will be able to proceed. Also remember that inactive Professing Members are still members for the purpose of the quorum. It is suggested that if a percentage is chosen, it should not be more than 10%. The relevant federal or provincial Not-for-Profit Corporations Act in force at the time should be applied as to quorum requirements. Federal corporations must apply the federal legislation and provincial corporations must apply the provincial legislation. Your legal counsel should customize these Bylaws accordingly.

#### **9.05 Chair of the Meeting**

The Chair shall be the chair of the Members' meeting; in the Chair's absence the Vice-Chair shall be the chair of the Member's meeting; and in the absence of both the Chair and the Vice-Chair, the Members present at any Members' meeting shall choose another Director as chair and if no Director is present or if all of the Directors present decline to act as chair, the Professing Members present shall choose one of their number to chair the meeting.

#### **9.06 Voting of Members**

Business arising at any Members' meeting shall be decided by a majority of votes unless otherwise required by the Act or this By-law provided that:

1. each Professing Member shall be entitled to one vote at any meeting;
2. votes shall be taken verbally by stating "I" or by a show of hands among all Professing Members present and the chair of the meeting shall have a vote;
3. an abstention shall not be considered a vote cast;
4. before or after a verbal "I" or show of hands has been taken on any question, the chair of the meeting may require, or any Professing Member may demand, a written ballot. A written ballot so required or demanded shall be taken in such manner as the chair of the meeting shall direct;
5. if there is a tie vote, the chair of the meeting shall require a written ballot, and shall not have a second or casting vote. If there is a tie vote upon written ballot, the motion is lost; and
6. whenever a vote by verbal "I" or by show of hands is taken on a question, unless a written ballot is required or demanded, a declaration by the chair of the meeting that a resolution has been carried or lost and an entry to that effect in the minutes shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

## **9.07 Adjournments**

The Chair may, with the majority consent of the voting Members at any Members' meeting, adjourn the same from time to time and no notice of such adjournment need be given to the Members, unless the meeting is adjourned by one or more adjournments for an aggregate of 30 days or more. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

## **9.08 Persons Entitled to be Present**

The only persons entitled to attend a Members' meeting are the Members, the auditors of the Corporation [or the person who has been appointed to conduct a review engagement] and others who are entitled or required under any provision of the Act or the articles to be present at the meeting. Any other person may be admitted only if invited by the Chair of the meeting or with the majority consent of the Professing Members present at the meeting.

## **Section 10 - Notices**

### **10.01 Service**

Any notice required to be sent to any Member, Director or Council member or to the auditor [or person who has been appointed to conduct a review engagement] shall be provided by telephone, delivered personally, or sent by prepaid mail, facsimile, email or other electronic means to any such Member or Council member at their latest address as shown in the records of the Church and to the auditor [or the person who has been appointed to conduct a review engagement] at its business address, or if no address be given then to the last address of such Member, Director or Council member known to the secretary; provided always that notice may be waived or the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.

Legal counsel should review the notice requirements in the applicable Act to ensure the means of notice listed in the Bylaw meet the requirements of the applicable legislation.

### **10.02 Computation of Time**

Where a given number of days' notice or notice extending over any period is required to be given, the day of service or posting of the notice shall not, unless it is otherwise provided, be counted in such number of days or other period.

### **10.03 Error or Omission in Giving Notice**

No error or accidental omission in giving notice of any Board meeting or any Members' meeting shall invalidate the meeting or make void any proceedings taken at the meeting.

## **Section 11 - Rules and Regulations**

The Directors may adopt by Resolution such rules, regulations or guidelines consistent with the articles, Church Order, this by-law and the Act relating to the management and operation of the Church as the Directors at a meeting of the Board considers expedient.

## **Section 12 - Division of Property Formula**

The Denomination has adopted provisions substantially as stated in the subsections of this section 12. The Church hereby adopts subsection 12.01 and 12.02 as its own.

## **12.01 - Division by Within the Denomination**

In the event of consensual division of this church by vote of its Professing Members and with the consent of Classis Hamilton into two or more Christian Reformed churches, all real and personal property of this Church shall be distributed between the two or more Christian Reformed churches as agreed to by the Professing Members, subject to the review of said distribution by Classis Hamilton (or synod of the Denomination on appeal), provided that the new Christian Reformed church or churches resulting from such division are registered or become registered charities under the Income Tax Act (Canada) within two years of such division.

CRA Charities Division is not very punctual in dealing with matters so time is of the essence when applying to CRA for charitable status.

## **12.02 – Division Resulting from a Schism**

In the event that Classis Hamilton (or synod of the Denomination on appeal) determines that an irreconcilable schism (division) has occurred within this church, the Professing Members of this Church who, according to the exclusive determination of Classis Hamilton (or synod on appeal), remain true to the Objects, the principles of doctrine and ecclesiastical government, as set out in the articles, shall be the lawful congregation of this Church and shall constitute the sole Professing Membership of this Church which shall have the exclusive right to hold and continue to hold and enjoy the real and personal property of this Church. Nothing in this subsection 12.02, however, shall prevent Classis Hamilton (or synod of the Denomination on appeal) from determining, in keeping with the scriptural injunction of 1 Corinthians 6, that more than one group of Professing Members of this Church are each a lawful congregation and from dividing the real and personal property between this Church and such other lawful congregation (having the same or similar objects and arising from this Church) in such proportion as Classis Hamilton (or synod of the Denomination on appeal) may determine, provided that the new congregation resulting from such schism is a registered or becomes a registered charity under the Income Tax Act (Canada) within two years of such schism.

## **Section 13 - Performance of Marriage Ceremonies**

### **13.01 Institution**

The Church recognizes marriage as an institution ordained by God. It is a life-long covenant relationship established by mutual vows between a man and a woman united by God.

### **13.02 Use of Facilities for Marriage Ceremonies**

The Church hereby limits the use of its facilities to approved programs and purposes that are consistent with its articles, its by-laws, and the polices of the Council as enacted from time to time, specifically including, without limitation, that the performance of marriage ceremonies by or within the church or within the church facilities shall be limited to marriage ceremonies which are approved by the Council and between a man and a woman united by God.

### **13.03 Authorization to Perform Marriage Ceremonies**

The Church provides that all pastors within its employ, including, without limitation, visiting or retired pastors, or that clergy performing marriage ceremonies within the church facilities shall be limited to perform only those marriage ceremonies that are approved by the Council and between a man and a woman united by God.

## **Section 14 - Adoption and Amendment of By-laws**

### **14.01 Amendments to By-laws**

The Professing Members may from time to time amend this by-law by a majority of the votes cast and in accordance with the Act. The Board may from time to time in accordance with the Act pass or amend this by-law other than a provision respecting the transfer of a membership or to change the method of voting by members not in attendance at a meeting of members.

**Enacted [insert date].**

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**Chair**

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**Secretary**

## Schedule A

### Position Description of the Lead [or Senior] Pastor

#### Role Statement

The lead pastor provides leadership to the Board, ensures the integrity of the Board's process and represents the Board to outside parties. The lead pastor co-ordinates Board activities in fulfilling its governance responsibilities and facilitates co-operative relationships among Council members and between the Board and staff of the Church. The lead pastor ensures the Board discusses all matters relating to the Board's mandate.

Giving leadership is not to be confused with exercising direction, control and supervision which is the responsibility of the directors. Leadership is guiding the Board to ensure that their duties as Directors are carried out and properly communicated.

#### Responsibilities

**Agendas.** In cooperation with the Chair, establish agendas aligned with annual Church goals. Ensure meetings are effective and efficient for the performance of governance work. Ensure that a schedule of Council meetings is prepared annually.

**Direction.** Serve as Council's central point of communication with the staff of the Church; provide guidance to staff regarding Council's expectations and concerns. In collaboration with the executive committee, develop standards for Council decision-support packages that include formats for reporting to Council and level of detail to be provided to ensure that Church strategies and planning and performance information are appropriately presented to Council.

**Performance Appraisal.** Lead Council in monitoring and evaluating the performance of pastoral staff through an annual process.

**Work Plan.** Ensure that a Council work plan is developed and implemented that includes annual goals for Council and embraces continuous improvement.

**Representation.** Serve as Council's primary contact with the public.

**Reporting.** Report regularly to Council on issues relevant to its governance responsibilities.

**Board Conduct.** Set a high standard for Council conduct and enforce policies and By-laws concerning Qualified Council member's conduct.

**Mentorship.** Serve as a mentor to other Council members. Ensure that all Council members contribute fully. Address issues associated with underperformance of individual Council members.

**Succession Planning.** Ensure succession planning occurs for pastoral staff and Council.

**Committee Membership.** Serve as member on all Council committees dealing primarily with worship and education.

## Schedule B

### Position Description of the Treasurer

#### Role Statement

The treasurer works collaboratively with the lead pastor and executive committee to support the Council in achieving its fiduciary responsibilities.

#### Responsibilities

**Custody of Funds.** The treasurer shall have the custody of the funds and securities of the Church and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Church in the books belonging to the Church and shall deposit all monies, securities and other valuable effects in the name and to the credit of the Church in such chartered bank, credit union or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the Board from time to time. The treasurer shall disburse the funds of the Church as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the Chair and Council at the regular meeting of the Council, or whenever they may require it, an accounting of all the transactions and a statement of the financial position, of the Church. The treasurer shall also perform such other duties as may from time to time be directed by the Board.

**Board Conduct.** Maintain a high standard for Board conduct and uphold policies and By-laws regarding Director's conduct, with particular emphasis on fiduciary responsibilities as required under the Charities Accounting Act and other laws applicable to charities.

The Act in s. 5 (2) states: "If there is a conflict between this Act or a regulation made under it and any other Act, regulation or law applicable to charitable corporations, the other Act, regulation or law applicable to charitable corporations prevails." Since the law applying to charity deals primarily with the use of the Church's resources, the Treasurer needs to ensure that the law is complied with. Appointing a bookkeeper to keep the records is not sufficient. Ordinarily, the function of bookkeeper and Treasurer will be separate. The Church should retain certified accountant(s) that have experience in servicing registered Canadian charities.

**Mentorship.** Serve as a mentor to other Directors.

**Financial Statement.** Present to the Members at the Annual Meeting as part of the annual report, the financial statement of the Church approved by the Board together with the report of the auditor [or of the person who has conducted the review engagement].

## **Schedule C**

### **Position Description of the Secretary**

#### **Role Statement**

The secretary (in the Church Order referred to as the clerk) works collaboratively with the Chair to support the Board in fulfilling its fiduciary responsibilities.

#### **Responsibilities**

**Board Conduct.** Support the lead pastor in maintaining a high standard for Board conduct and uphold policies and the By-laws regarding Qualified Council member's conduct, with particular emphasis on fiduciary responsibilities.

**Document Management.** Keep a roll of the names and addresses of the Members. Ensure the proper recording and maintenance of minutes of all meetings of the Church, the Council and Council appointed committees. Attend to correspondence on behalf of the Council. Have custody of all minute books, documents and registers of the Church and ensure that they are maintained as required by law. Ensure that all reports are prepared and filed as required by law or requested by the Board.

**Meetings.** Give such notice as required by the By-Laws of all meetings of the Church, the Council and Council appointed committees. Attend all meetings of the Church and Council.